

DISTRICT OF MAINE

[illegible]

**This document applies to:
ALL CASES**

I have adopted the parties' joint Amended Scheduling Order. Paragraphs 3(g) – 11 of the Scheduling Orders dated February 15, 2001 and June 27, 2001 are modified as set forth below. (Paragraphs 1 – 3(f) of the Scheduling Order dated February 15, 2001 are not affected by this Amended Order and thus are not represented here.)

3. Document and Data Discovery of Retailer Defendants and Nonparty Retailers, Including Sales Data (assuming resolution of issues relating to production of electronic data)
 - (g) Joint retailer document and data discovery requests were served on the Retailer Defendants and, by subpoena duces tecum, on 57 Non-Party Retailers on or about May 11, 2001. The Retailer Defendants have served written responses and objections. A substantial number of the Non-Party Retailers have served objections and/or moved for protective orders in the courts from which the subpoenas duces tecum were issued.
 - (h) Retailers' production of documents and agreed-upon data shall be completed by January 31, 2002.
4. Discovery of Private Plaintiffs (including written discovery and depositions on class and merits issues)

- (c) Written discovery addressed to Roy Plaintiffs was served on or about June 6, 2001.
- (d) Responses by Roy Plaintiffs to requests for written discovery were served on or about July 6, 2001.
- (e) Anticipated completion of discovery of Roy Private Plaintiffs: August 31, 2001.

5. Supplemental Document Discovery of Distributor Defendants

- (a) Requests by Plaintiffs (other than Roy Plaintiffs) were served May 4, 2001. Distributor Defendants served written responses and objections on or about June 26, 2001.
- (b) Requests by Roy Plaintiffs were served May 23, 2001. Distributor Defendants served written responses and objections on or about June 26, 2001.
- (c) Rolling production of documents shall be completed by January 10, 2002.

6. Class Certification

- (a) The Roy Plaintiffs' motion for class certification was served May 29, 2001.
- (b) The Private Plaintiffs and the Roy Plaintiffs will each file expert affidavit(s) in support of their separate class certification motions on or before February 8, 2002.
- (c) Depositions of the plaintiffs' class experts and depositions of any necessary fact witnesses (other than the plaintiffs) on class issues shall be completed by March 8, 2002. Upon reasonable notice, in order to avoid duplicative appearances, individual fact witnesses noticed for class depositions may also be deposed on merits issues.
- (d) Defendants' opposition to the Roy Plaintiffs' class certification motion, including expert affidavits, if any, shall be filed by March 22, 2002.
- (e) Defendants' opposition to the (non-Roy) Private Plaintiffs' class certification motion, including expert affidavits, if any, shall be filed by April 8, 2002.

- (f) Depositions of defendants' class expert(s) shall be completed by May 8, 2002.
 - (g) The Private Plaintiffs' and Roy Plaintiffs' reply briefs, including expert affidavits, if any, (providing that if leave of Court is required for the filing of expert affidavits, such leave has been granted) shall be filed by May 29, 2002.
 - (h) Hearings on plaintiffs' class certification motions are requested and shall be scheduled, if the Court deems appropriate, as soon as practicable thereafter.
7. Depositions of Defendants and Nonparties: February 1, 2002 through June 7, 2002.
- (It is anticipated that certain depositions of defendants' witnesses, such as 30(b)(6) designees on computer data or other issues, may be held prior to February 1, 2002. It is also anticipated that depositions of fact witnesses may be held on class issues prior to February 1, 2002.)
8. Completion of Fact Discovery, including contention interrogatories: June 7, 2002.
9. Expert Discovery (merits)
- (a) Plaintiffs shall identify experts and provide expert reports by June 28, 2002 (rebuttal experts excluded).
 - (b) Defendants shall identify experts and provide expert reports by July 26, 2002.
 - (c) Plaintiffs shall identify rebuttal experts (to the extent not already identified) and provide rebuttal expert reports by August 16, 2002. The Court does *not* rule that rebuttal experts are appropriate. This simply establishes the deadline if they are.
 - (d) Depositions of plaintiffs' and defendants' experts shall take place between August 23 and September 20, 2002. (Plaintiffs' experts' depositions shall be scheduled during the period August 23 through September 6. Defendants' experts' depositions shall be scheduled during the period September 7 through September 20.)
10. All Discovery, Including Requests for Admissions, Shall Be Closed by September 20, 2002.

11. Summary Judgment and All Other Dispositive Motions (if applicable)

- (a) Summary judgment motions (if any) shall be filed by October 21, 2002.
- (b) Responses to summary judgment motions shall be filed no later than December 2, 2002.
- (c) Replies to summary judgment motions shall be filed no later than December 20, 2002.
- (d) Hearing on summary judgment motions is requested and shall be scheduled, if the Court deems appropriate, as soon as practicable thereafter.

12. Interim Progress Reports

I am concerned that actions or delays of entities that are not parties—and therefore not as familiar with the urgency of moving this matter forward as those whose counsel must appear in person before the undersigned—may provoke further delays. Accordingly, I order interim progress reports to the Court concerning the progress of this discovery on October 19, 2001, and November 30, 2001.

So Ordered.

Dated this 13th day of September, 2001.

D. Brock Hornby
United States Chief District Judge